



CLOSED CASE SUMMARY

ISSUED DATE: JUNE 27, 2023

FROM: DIRECTOR GINO BETTS 
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2023OPA-0016

Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	8.400 - Officers, Including Witness Officers, Will Verbally Notify a Supervisor Following Any Use of Reportable Force, As Soon As Feasible	Not Sustained - Inconclusive

This Closed Case Summary (CCS) represents the opinion of the OPA Director regarding the misconduct alleged and therefore sections are written in the first person.

EXECUTIVE SUMMARY:

The Complainant—a Seattle Police Department (SPD) sergeant—alleged that Named Employee #1 (NE#1) failed to report force used against Community Member #1 (CM#1)—an arrestee.

ADMINISTRATIVE NOTE:

On May 12, 2023, Seattle's Office of Inspector General (OIG) certified OPA's investigation as thorough, timely, and objective.

This case was approved for Expedited Investigation. That means OPA, with OIG's agreement, believed it could reach and issue recommended findings based on its intake investigation without interviewing the involved employee. As such, OPA did not interview the involved employee in this case.

SUMMARY OF INVESTIGATION:

In summary, OPA's evidentiary review showed:

On December 28, 2022, at 8:44 PM, officers responded to a drive-by shooting near Rainier Avenue S and S Henderson Street. Officers pursued a Volvo they believed contained the drive-by shooter.¹ The Volvo crashed into a center island during the pursuit, deflating both driver-side tires. CM#1, the driver, and Community Member #2 (CM#2), the front passenger, exited the Volvo and fled on foot. CM#1 ran across traffic lanes barefoot. Witness Employee #1 (WE#1) chased and brought CM#1 to the ground for handcuffing. As CM#1 lay face down, NE#1 charged toward WE#1 and CM#1 to assist with handcuffing. NE#1's knee collided with CM#1's side as he lowered his body. CM#1 made no complaint of pain. NE#1 repositioned his knee between CM#1's shoulder blades² before handcuffing her. Following

¹ OPA investigated that vehicle pursuit under 2023OPA-0015.

² A knee across the back is a department-trained tactic for handcuffing noncompliant subjects.



CM#1 and CM#2's arrest, the Complainant screened the incident and uses of force. However, NE#1 did not report that his knee collided with CM#1. Instead, the Complainant later flagged the incident during his review of NE#1's body-worn video (BWV). The Complainant directed NE#1 to complete a Type II³ use of force statement. In it, NE#1 said he ran to assist WE#1, handling a noncompliant CM#1 alone. Since it was reported that a drive-by shooter was inside the vehicle CM#1 drove, NE#1 believed all its occupants were possibly armed. NE#1 said he sprinted to help WE#1 handcuff CM#1 but was unaware that his knee struck CM#1 when he lowered his body. NE#1 noted that he tried to slow down as he approached WE#1 and NE#1 but lost balance. CM#1 sustained bruising and abrasions to both elbows, a cut on her right pinky knuckle, and an abrasion on her right wrist.



ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

8.400 - Officers, Including Witness Officers, Will Verbally Notify a Supervisor Following Any Use of Reportable Force, As Soon As Feasible

The Complainant alleged that NE#1 failed to report a knee strike applied to CM#1.

Officers who use reportable force while on duty must notify an SPD sergeant as soon as feasible. SPD Policy 8.400-POL-1-3(a).

Here, NE#1's knee contacted CM#1's side as she lay face down. However, it is unclear whether NE#1 realized that application of force until the Complainant brought it to his attention. BWV showed NE#1 sprinted to assist WE#1 with handcuffing. NE#1 told OPA he rushed to help because WE#1 handled a noncompliant CM#1 alone, and CM#1 was possibly armed, based on the report that she harbored a drive-by shooter. As he got closer, he slowed, lowered, and appeared to lose balance. In addition to inadvertently contacting CM#1, NE#1's momentum caused WE#1 to fall back, further suggesting the impact was unintentional. Considering that NE#1 was focused on securing CM#1 and CM#1 made no indication of pain when NE#1's knee contacted her, OPA cannot find that NE#1 knew or should have known

³ Type II is force that causes or is reasonably expected to cause physical injury greater than transitory pain but less than great or substantial bodily harm. SPD Policy 8.050.



about the unintentional contact. Had the evidence suggested that NE#1 knew about his reportable use of force, he would have been required to report it to a sergeant—regardless of whether the force was unintentional.

Accordingly, OPA recommends this allegation be Not Sustained – Inconclusive.

Recommended Finding: **Not Sustained - Inconclusive**